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Notice of Allowability	Application No.	Applicant(s)	
	10/049,787	NIEDEREDER ET AL.	
	Examiner	Art Unit	
	Clifford C Shaw	1725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 5/10/2004.
2. ☒ The allowed claim(s) is/are 70-104 and 106-108.
3. ☒ The drawings filed on 15 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: In the "Remarks/Arguments" portion of his amendment filed on 5/10/2004, applicant argues that his claims distinguish over the prior art because the claims call for a server and a control/evaluation unit that are separate units and that are both disposed in a single housing. In connection with claim 70, applicant states:

" In the present invention, as disclosed in claim 70 and shown by way of example in Figure 2 of the present invention, the server and the control unit are separate elements wherein both are housed in a single housing. With this design, if the control or evaluation unit fails, it can be easily replaced without disrupting the server. In addition, if the server fails, a generic server can be installed without disrupting the control and evaluation unit as well."

Applicant's arguments are persuasive that the independent claims patentably distinguish over the prior art of record. The system shown in Crater et al. (5,805,442) shows a control system 10 that includes a single CPU 12 interacting with a single memory space associated with storage at element 14. This storage element 14 includes both the server functionality and the control function, with the CPU 12 clearly operating in a multi-tasking mode as is known in the art. This integrated control and server in the Crater et al. patent is not the same as applicant's claimed separate control and server elements, housed in a single housing. In regard to claim 70, applicant states that claim 70 requires that "the server and control unit are separate elements ...". Claim 70 does not include the explicit language "separate elements", but it is clear from the

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language in the body of claim 70 describing the interaction of the server unit with the control and evaluation device and from the language in paragraph h of claim 70 that the http server and the control and evaluation device must be separate units and are not an integrated unit as in the Crater et al. system. In claim 99, the web server and the control and evaluation unit are set forth as being disposed in the same housing, while being separate units.

The dependent claims are patentable at least because they depend from independent claims 70 and 99.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication should be directed to Clifford C Shaw at telephone number 571-272-1182. The examiner can normally be reached on Monday through Friday of the first week of the pay period and on Tuesday through Friday of the second week of the pay period.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas G. Dunn, can be reached at 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Clifford C Shaw
Primary Examiner
Art Unit 1725

May 27, 2004